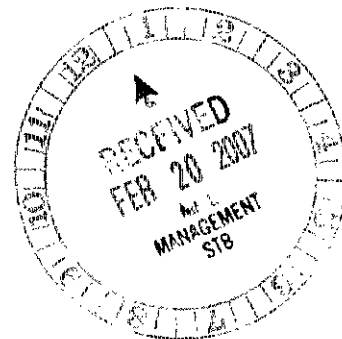


M

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February 20, 2007

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

218657

**Re: STB Docket No. AB-6 (Sub-No. 430X) BNSF Railway Company—
Abandonment Exemption—in Oklahoma County, OK**

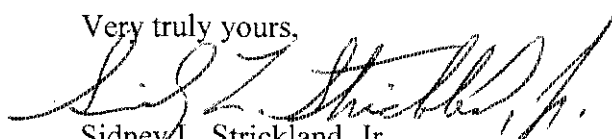
218659

**STB Docket No. AB-1040X, Stillwater Central Railroad, Inc—
Discontinuance of Service Exemption—in Oklahoma County, OK**

Dear Mr. Williams:

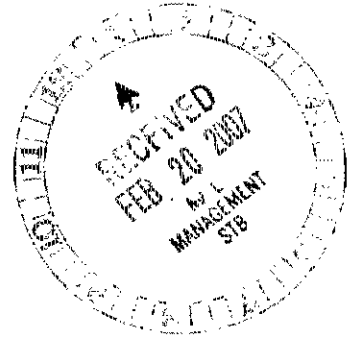
Enclosed please find an original and 10 copies of a Joint Motion to Reject Petition to Toll Date an Offer of Financial Assistance Must Be Filed By.

Very truly yours,


Sidney L. Strickland, Jr.
Attorney for BNSF Railway Company

ENTERED
Office of Proceedings
FEB 20 2007
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD



**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN OKLAHOMA COUNTY, OK**

**STB DOCKET NO. AB-6
(SUB-NO. 430X)**

**STILLWATER CENTRAL RAILROAD,
INC. – DISCONTINUANCE OF SERVICE
EXEMPTION – IN OKLAHOMA
COUNTY, OK**

**STB DOCKET NO. AB-
1040X**

MOTION TO REJECT
PETITION TO TOLL DATE AN OFFER OF FINANCIAL ASSISTANCE
MUST BE FILED BY

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057

STILLWATER CENTRAL
RAILROAD, INC
123 N. Depot
Cherryvale, KS 67335

By: SIDNEY L. STRICKLAND, JR
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Attorneys for BNSF Railway Company

Attorney for Stillwater
Central Railroad, Inc.

DATED: February 20, 2007

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN OKLAHOMA COUNTY, OK**

**STB DOCKET NO. AB-6
(SUB-NO. 430X)**

**STILLWATER CENTRAL RAILROAD,
INC. – DISCONTINUANCE OF SERVICE
EXEMPTION – IN OKLAHOMA
COUNTY, OK**

**STB DOCKET NO. AB-
1040X**

**MOTION TO REJECT
PETITION TO TOLL DATE AN OFFER OF FINANCIAL ASSISTANCE
MUST BE FILED BY**

BNSF RAILWAY COMPANY (“BNSF”) and STILLWATER CENTRAL RAILROAD, INC. (“SLWC”) hereby move for rejection of the February 12, 2007 petition by Edwin Kessler to toll (“Petition”) the date for filing an Offer of Financial Assistance (“OFA”).

The Petition should be rejected because: (1) Mr. Kessler admittedly missed the November 12, 2005 deadline to file an OFA and he, along with Common Cause Oklahoma (“CCO”), has been fully aware of these proceedings from the start; (2) Mr. Kessler seeks an OFA purchase over the entire 2.95 rail line owned by BNSF even though SLWC is only discontinuing service over 0.95 miles of the subject Line; and (3) Mr. Kessler is not seeking to acquire the Line to provide continued freight service but is instead seeking to stop a highway project.

Background

On September 23, 2005, BNSF and SLWC jointly filed Notices seeking to invoke the class exemption under 49 C.F.R. § 1152, Subpart F for BNSF to abandon, and for SLWC to discontinue service over, approximately 2.95 miles of railroad between milepost 539.96 and milepost 542.91 in Oklahoma City, Oklahoma County, OK. Notice of the exemptions was served and published in the Federal Register on October 13, 2005 (70 FR 59802).

On November 7, 2005, Oklahoma State Representative Al Lindley (“Representative Lindley”) and Bio-Energy Wellness Center (“Wellness Center or the Center”) filed comments urging that the Notices be rejected. On November 9, 2005, petitioners Wellness Center and North American Transportation Institute (“NATI”) filed a joint petition to reject the Notices of exemption. BNSF and SLWC replied to those filings on November 10, 2005.

The BNSF abandonment Notice became effective on November 12, 2005.

Subsequently, the parties filed various pleadings related to the request to reject the Notices through February 2006.

On January 26, 2007, the Board served a decision denying petitioners’ motion to reject the BNSF Notice and granting SLWC an exemption permitting it to discontinue service over the line. In that decision, the Board also ordered that an OFA to subsidize continued rail service in the SLWC discontinuance proceeding must be received by the railroads and the Board by February 5, 2007.

On February 5, 2007, CCO filed a Request for Extension of Time to File an Offer of Financial Assistance (“Request”) requesting a two week extension of time to “obtain additional information” related to a possible “offer for purchase of the two and a half mile segment of railroad” and “the prospect of obtaining sufficient money from interested investors.”

On February 7, 2007, BNSF and SLWC jointly filed a Motion to Reject Request For Extension of Time to File an OFA (“Motion to Reject”) arguing that CCO missed the October 24, 2005 deadline to submit a formal expression of intent to file an OFA and failed to file an OFA before the Notice of Exemption became effective in STB Docket No. AB-6 (Sub-No. 430X). BNSF and SLWC also argued that CCO seeks an extension to file an OFA to acquire the rail lines over which SLWC is discontinuing operations in STB Docket No. AB-1040X, which is not permitted in a discontinuance proceeding.

On February 12, 2007, Mr. Kessler filed his Petition. In the Petition, Mr. Kessler states that on February 12, 2007, he sent a Notice of Intent to File an OFA (“OFA Notice”) to BNSF, requesting information regarding the Line. Mr. Kessler claims that the time period within which an OFA must be filed is 30 days from the Board’s January 26, 2007 decision and not 30 days from the date of the Federal Register notice of BNSF’s Notice of exemption.

On February 13, 2007, Mr. Kessler filed a Notice of Intent to File an Offer of Financial Assistance to purchase from BNSF the 2.95 miles of rail line between milepost 539.96 and milepost 542. 91, which is the subject of BNSF’s abandonment proceeding.

Argument

1. Mr. Kessler Admittedly Missed the November 12, 2005 Deadline to File an OFA Even Though He and Other Members of CCO Have Been Fully Aware of These Proceedings Well Before That Date

Mr. Kessler and other members of CCO were aware of the abandonment and discontinuance in these proceedings and failed to exercise their opportunity to file an OFA to acquire the Line within the 30 day period which ended November 12, 2005.

In the February 5, 2007 Request, Mr. Kessler, on behalf of CCO, claims:

The concerned citizens whom I am representing have had little knowledge of the technical matters concerning railroad abandonment issues and the associated role of the Surface Transportation Board. We were unaware of the publication on October 13, 2005, by BNSF and the Stillwater Central Railroad of its notice of abandonment and of its implications for abandonment.

Request at 1.

The document attached as Exhibit 1 and evidence of record, however, demonstrate that Mr. Elmore, and Mr. Kessler and other members of CCO have been aware of the abandonment and discontinuance well before November 12, 2005. Indeed, Wellness Center and NATI filed a joint petition to reject the BNSF and SLWC Notices of exemption on November 9, 2005. That joint petition was verified by Tom Elmore of NATI. Thus, Mr. Elmore was clearly aware of the Notices before the date of that filing.

In CCO's December, 2006 publication of its *Common-tary*, Mr. Elmore's name appears as one of seven individuals attributed with "work[ing] hard to deal with the trials and foibles of advancing Oklahoma into the 21st Century with transportation alternatives." *Common-tary* at 1. On page 2 of that publication, Mr. Elmore authors an article in which he describes his efforts to enhance transportation alternatives as a

member of the Transportation Committee. The article demonstrates that Mr. Elmore and the CCO leadership have been in close communication with respect to the present proceedings. This article, when combined with Mr. Elmore's verification of NATI's petition, clearly demonstrates that members of CCO had the knowledge and opportunity to file an OFA prior to the November 12, 2005 deadline.

The December, 2006 *Common-tary* publication also demonstrates the disingenuousness of Mr. Kessler's recent filings in these proceedings. In an effort to circumvent the missed OFA filing deadline, Mr. Kessler complains that he and the "concerned citizens" he represents were unaware of the BNSF abandonment. In the publication, however, he recites a history of the Oklahoma City project including the abandonment of the Line. On page 7 of that publication, Mr. Kessler specifically refers to the present railroad abandonment proceeding and its presence before the STB. Mr. Kessler goes on to state: "The STB has reopened the case for rail abandonment, and it is not known at this time whether or not the Crosstown project will be authorized to proceed at the Union Terminal rail yard location."

Mr. Kessler, Mr. Elmore, and other members of CCO clearly have engaged in coordinated efforts commencing before November 12, 2005, to utilize the STB processes to thwart a highway project. Now that Mr. Elmore has failed to stop the abandonment and discontinuance of service, his associate, Mr. Kessler, steps forward and feigns ignorance of the proceedings in an attempt to circumvent the missed OFA filing deadline. These parties' attempts to subvert and abuse the Board's procedures should not be countenanced and the Petition should be summarily rejected.

2. Mr. Kessler Seeks an OFA Purchase Over the Entire 2.95-Mile Rail Line Owned by BNSF Even Though SLWC Is Only Discontinuing 0.95 Miles of the Subject Line.

Mr. Kessler seeks an OFA to purchase BNSF's 2.95-mile rail line subject to abandonment in STB Docket AB-6 (Sub-No. 430X). As noted in BNSF's and SLWC's February 7, 2007 Joint Motion to Reject, Mr. Kessler's Petition is not timely.¹

In his Petition, Mr. Kessler concedes that on October 13, 2005, notice of the abandonment and discontinuance exemption was published in the Federal Register. Mr. Kessler also concedes that under 49 CFR 1152.27(b)(2)(ii), OFAs must be filed no later than 30 days after the date of the Federal Register publication, or November 12, 2005, in the BNSF abandonment proceeding. Indeed, Mr. Kessler admits in his Petition he missed the OFA filing deadline of November 12, 2005.

Despite the above stated filing deadlines, Mr. Kessler argues the Line was not subject to the Board's OFA procedures prior to the Board's January 26, 2007 decision, and he, therefore, has 30 days from that date to file an OFA or a stay of the date for submitting an OFA. Mr. Kessler bases this argument on two cases: *Delaware and Hudson Railway Company, Inc.—Discontinuance of Trackage Rights Exemption—In Susquehanna County, Pa and Broome, Tioga, Chemung, Steuben, Allegany, Livingston,*

¹ Neither Kessler nor CCO made a timely bona fide request for information from the railroads. Also, CCO's Petition circumvents procedural rules in that it is an impermissible request to toll the 10-day period for submitting offers of financial assistance. According to Ordering paragraph 7 of the Board's January 26, 2007 decision, an OFA under 49 CFR 1152.27(c)(1) must be received by the railroads and the Board by February 5, 2007, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). CCO missed the February 5, 2007 deadline to file an OFA, and cannot toll the 10-day period for submitting offers of financial assistance because CCO and Kessler failed to make a bona fide request for information by February 5, 2007, from the railroads, as required by the Board's rules. Petitioner also failed to timely file a Notice of Intent to File an OFA. See *CSX Transportation, Inc. – Abandonment Exemption – In Fayette and Nicholas Counties, WV*, STB Docket no. AB-55 (Sub-No. 538X), served February 11, 1997.

2. Mr. Kessler Seeks an OFA Purchase Over the Entire 2.95-Mile Rail Line Owned by BNSF Even Though SLWC Is Only Discontinuing 0.95 Miles of the Subject Line.

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Despite the above stated filing deadlines, Mr. Kessler argues the Line was not subject to the Board's OFA procedures prior to the Board's January 26, 2007 decision, and he, therefore, has 30 days from that date to file an OFA or a stay of the date for submitting an OFA. Mr. Kessler bases this argument on two cases: *Delaware and Hudson Railway Company, Inc.—Discontinuance of Trackage Rights Exemption—In Susquehanna County, Pa and Broome, Tioga, Chemung, Steuben, Allegany, Livingston,*

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Wyoming, Erie, and Genessee Counties, NY, STB Docket No. AB-156 (Sub-No. 25X), served March 30, 2005 (“*Delaware and Hudson*”) and *Consolidated Rail Corp.*—*Abandonment Exemption—In Mercer County, NJ*, STB Docket No. AB-167 (Sub-No. 1185X), *Norfolk Southern Railway Company—Discontinuance Exemption—In Mercer County, NJ*, STB Docket No. AB-290 (Sub-No. 294X), *CSX Transportation, Inc.*—*Discontinuance Exemption—In Mercer County, NJ*, AB-55 (Sub-No. 676X), served January 26, 2007 (“*Robbinsville*”). Kessler argues that based on *Delaware and Hudson*, “a line cannot be subject to an OFA until all authority to operate over the line has been abandoned (until a total loss of service is imminent).” Furthermore, he argues that in *Robbinsville*, “the Board held before Conrail could abandon the line, both CSXT and Norfolk Southern Railway had to file Notices of Discontinuances, since both had common carrier obligations over the line.”

In the January 26, 2007 decision, the Board, on its own motion, granted SLWC an exemption. Thus, the deadline for filing OFAs in the SLWC’s proceeding is governed by 49 C.F.R. 1152.27 (c)(1)(i)(B) and not 49 C.F.R. 1152.27 (c)(2)(i). Consequently, CCO’s deadline was February 5, 2007 and CCO’s February 13, 2007 request to toll that deadline is untimely.

Mr. Kessler’s arguments suggest he has 30 days from January 26, 2007, to file an OFA for the 0.95-mile segments of the Line subject to discontinuance. The remainder of the 2.95 Line was subject to the OFA filing deadline of November 12, 2005. There is no merit to Kessler’s arguments, as noted in the body of this filing, for filing due dates outside the STB’s January 26, 2007 order.

3. Mr. Kessler Is Not Seeking to Acquire the Line to Provide Continued Freight Service but Is Instead Seeking to Stop a Highway Project.

Mr. Kessler cannot seek an OFA to purchase BNSF's 2.95 mile rail line subject to abandonment in STB Docket AB-6 (Sub-No. 430X) because, as stated above, the deadline for filing an OFA was November 12, 2005.

Mr. Kessler also cannot seek an OFA to purchase the two portions of rail line subject to discontinuance in AB-1040X. Only an OFA to subsidize rail service is timely filed as of 10 days from the STB's January 26, 2007 decision. Mr. Kessler's intent to file an OFA to acquire the rail line rather than to subsidize rail service is inappropriate and untimely.

Furthermore, the OFA process was established as a means to preserve rail service over a line of railroad. Mr. Kessler does not seek to acquire the Line in order to continue rail service. Rather, Mr. Kessler's intention in acquiring the Line is to thwart a highway project, contrary to precedent. See *Redmond-Issaquah Railroad v. STB*, 223 F.3d 1057, (9th Cir. 2000).

In the January 26th decision, the Board found that there are no shippers located along the Line. Without any shippers to serve, there is no lawful reason for Mr. Kessler to seek an OFA. Furthermore, in the February 5, 2007 Request, Kessler, on behalf of CCO, states: "We do pray that...the STB will help us find a way to prevent Oklahoma, during its centennial year, from becoming the last place in the United States to remove railroad tracks and the functional capability of a terminal building in excellent condition, in favor of increased automobile traffic." Request at 2. Moreover, as the attached

document makes clear, the members of CCO are determined to thwart the highway project in Oklahoma City and will utilize any means at their disposal including delaying and manipulating these proceedings. Mr. Kessler's attempt to acquire the Line for purposes other than continued rail service contradicts the very purpose for which the OFA process was established. *See Conrail Abandonment of Portion of the West 30th Street Secondary Track in New York, NY*, Docket No. AB-167 (Sub-No. 493N), served January 13, 1987.

Finally, it is apparent from Mr. Kessler's filings that neither he nor his associates are "financially responsible" within the meaning of 49 U.S.C. 10904. In the Request, Mr. Kessler seeks a two week extension, in part, to see if CCO can raise money to acquire the Line. A party seeking to acquire a rail line under the OFA procedures must be able to demonstrate that he is financially responsible. Mr. Kessler has provided no financial statements or any other evidence from which the Board could make a finding on financial responsibility. *See Chicago and North Western Railway Company – Abandonment Exemption – Between Norfolk and Merriman, NE*, Docket No. AB-1 (Sub-No. 249X), served July 7, 1994.

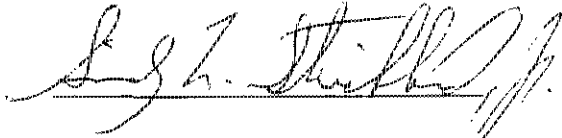
Conclusion

Mr. Kessler's Petition should be rejected because Mr. Kessler and CCO missed the November 12, 2005 deadline to file an OFA even though they have been fully aware of these proceedings from the start. Moreover, Mr. Kessler and CCO missed the February 5, 2007 deadline to file a subsidy OFA in the discontinuance proceedings.

Finally, Mr. Kessler is not seeking to acquire the Line to provide continued freight service but is instead seeking to stop a highway project.

Respectfully submitted,

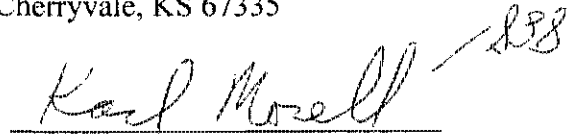
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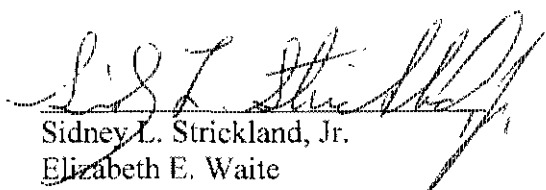
Attorney for Stillwater
Central Railroad, Inc.

DATED: February 20, 2007

CERTIFICATE OF SERVICE

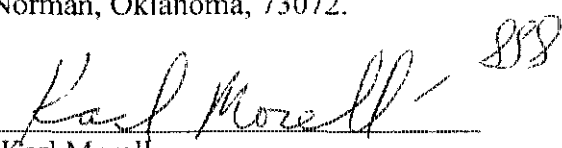
BNSF Railway Company and the Stillwater Central Railroad, Inc., by and through their counsel, Sidney L. Strickland, Jr., and Karl Morell, respectively, certify that on February 20, 2007, BNSF and SLWC served a copy of the foregoing "Motion to Reject Petition to Toll date an Offer of Financial Assistance Must Be Filed By" by facsimile transmission and by mailing copies thereof by first-class mail to Edwin Kessler at:

Common Cause *Oklahoma*, 1510 Rosemont Drive, Norman, Oklahoma, 73072.



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STILLWATER CENTRAL
RAILROAD, INC.



Common-tary

Newsletter of Common Cause Oklahoma,
Volume 12, Issue 2, December 2006

Our Continuing Efforts Continue

O. Gail Poole- Norman

Tom Elmore, Lynn Howell, Ed Kessler, Richard Robinson, Evan Stair, Jim Townsend and your author: These souls work hard to deal with the trials and foibles of advancing Oklahoma into the 21st Century with transportation alternatives. Getting to the future by returning to the past would be more accurate, as it becomes evident and indeed urgent that we reintroduce the most efficient form of transportation available for passengers and freight, especially for distances up to about 600 miles.

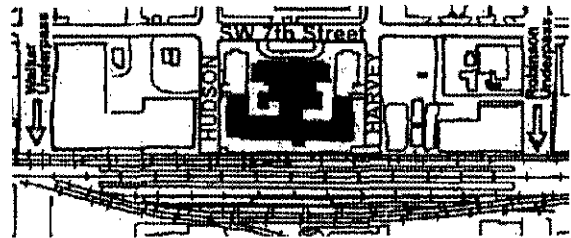


We have attempted time after time, to stop our Oklahoma Department of Transportation (*it should be called Dept. of Highways*), from destroying the functionality of the Union Station in Oklahoma City.

(For readers unfamiliar with the facility, I'm displaying photos of the Terminal building as well as a stylized map showing the location and layout of the facility.)

At each turn in the road and at each meeting we've attended and spoken, *easily numbering in excess of 100 between us*, we've been met with "stonewalling" and bogus replies to our questions. Often times it was difficult to gain the floor to speak our minds, in addition to simply finding out where and when the

meetings were to be held. Many were held in obscure locations around the state and at hours difficult for working people to attend.



Union Station schematic

Thus far it seems we've not managed to do much that would stir the public from their slumber and awaken them to bad aspects of ODOT and OKC intentions to destroy one of the most, valuable assets in Central Oklahoma. Union Station with its 10 rail-lines has not been sitting patiently for all these years just to be destroyed. It is now ready to be refurbished to serve for many more years into our future. And although there has been more and more talk of rail transportation being expanded in Oklahoma, the present talk doesn't deal with preserving Union Station as a station. This although its purchase in 1989 with mostly federal funds was declared by then Transportation Director Neal McCaleb to be for its return to use as a multimodal transportation center

It is logical for anyone who hasn't been keeping up with this ongoing fiasco, to ask why ODOT and OKC want to continue on their intended course. I think that the situation is controlled by a vision that Bricktown and environs ought to be the center of Central Oklahoma's universe and that priority alone is sufficient to dictate that Oklahomans don't need to be worrying about mass-transportation even though OKC is consistently edging closer and closer to the air pollution limit defined by the Environmental Protection Agency. Zach Taylor, Exec. Dir. for the Association of Central Oklahoma Governments, recently said that once OKC exceeds that limit, there will be no more industry or federal highway money until the levels are well back into the safety zone with assurances of remaining there. But the plan for a ten-lane high-speed highway along the route of existing railroad tracks will

only exacerbate OKC's air pollution and public health problems!

In following pages, we present commentaries by various knowledgeable individuals on the Union Station situation. It is our hope and aim to alert and incite large numbers of Oklahomans to write their representatives in the legislature as well as our governor, asking them to stop those who seem determined to place their personal gain ahead of the good of the State's citizens.

State Leadership and Grassroots Must Dig Harder for the Truth

Tom Elmore, Moore

In 1999 I participated in the Oklahoma City 20 Year Plan update. I was a member of the Transportation Committee with roughly 20 other area citizens. The meetings were held at OKC Union Station. With the exception of the committee chair, a member of the Central Oklahoma Transit and Parking Authority (COTPA) board, most other members were "regular folks" who participate in neighborhood associations and other grassroots efforts.

Having seen my pitch for the importance of Union Station and transit development, the committee voted unanimously to approve a resolution flatly rejecting ODOT's "New Crosstown" plan to destroy the Union Station yard and urging the preservation and reuse of the facility for transit development.

Unfortunately, by the time the resolution had been randomly picked apart, first by the steering committee (at the urging of ODOT's David Streb) and then by the OKC mayor and city council, what wound up in the final draft of the 20 Year Plan was only a vague, toothless remnant of the original.

So much for "grassroots input" in central Oklahoma.

In a recent issue of the Oklahoma Gazette, a relatively new organization, the "Alliance for Public Transport (APT)" was presented as a "grassroots group." A photo of the chairman, head of Metro Transit (COTPA) planning, accompanied the article. Having attended a few of the meetings of the organization and knowing something of the effort that brought it about, I called to ask one of APT's officers "how they figured it was a grassroots organization." All the meetings are set up by folks with government or government-related e-mail addresses, and, for the life of me, I could not find a single "regular citizen" in any element of leadership or much of anywhere else for that matter. The answer I got went something like, "It's not really a grassroots organization, but we hope it will be one day."

At a recent APT meeting, a speech was made by a local leader, a steering committee member of the recent Central Oklahoma Fixed Guideway Study. After hearing a few of the statements and assertions this gentleman made, I asked if he knew, or if it had been noted in any meeting of the Fixed Guideway Study steering committee, that Oklahoma owns more railway ("fixed guideway") than any other state in the Union, and that the most strategic of these lines, linking the state's largest cities and military bases, all meet at OKC Union Station's rail yard, the last grand urban rail passenger yard in the West with all its yard space intact. I also asked if he or the other committee members had ever heard that it was THIS facility, the envy of transit planners from other areas, that ODOT is determined to destroy.

The gentleman frankly said that he did not know these things and had not heard them in the steering committee meetings. He indicated the committee had done the best it could with the information it had.

The conclusion seems inescapable that, despite the pressures building all around us for better transportation alternatives and the obvious, cost effective answers embodied in our state's amazing existing rail assets, whoever is actually behind the ostensible "transit studies" in

Central Oklahoma is going to some trouble to present groups as "grassroots" that are not in any way grassroots, plainly crowding out real grassroots input, while also withholding critical information from steering and other leadership committees, crippling their ability to credibly "steer."

Meanwhile, real grassroots input is being regularly cast aside by government as if office holders and bureaucrats were feudal "lords and ladies" arbitrarily disposing of the pleadings of the peasantry.

These apparent realities should reinforce the urgency with which the words of late Justice Robert H. Jackson are taken to heart and acted on by each of us. It was Justice Jackson who warned, "It is not the function of our government to keep the citizen from falling into error; it is the function of the citizen to keep the government from falling into error." Both the Oklahoma grassroots and our state's honest, upright leaders must recognize what we're up against and determine in the coming year to dig deeper and more energetically for the truth that can move our state ahead.

*Tom Elmore, Executive Director
North American Transportation Institute
www.advancedtransport.org*



The map above shows the location of Union Station. Right in the middle of Oklahoma's system of rail-routes. "The Hub".

About the Heartland Flyer

Evan Stair, Norman

Oklahoma Transportation Secretary Phil Tomlinson announced on September 29 of this year that Richard 'Ric' Williamson, Chair of the Texas Transportation Commission, has agreed to commit approximately \$2 million annually for continuation of the Heartland Flyer, which operates daily between Oklahoma City and Fort Worth and is Oklahoma's only passenger rail service. It is operated by Amtrak, and up to now it has been entirely state supported through the Oklahoma Department of Transportation (ODOT). The Texas commitment is the first in seven years, although the train has operated with stops at Gainesville and Fort Worth since its June 14, 1999, inauguration.

The Heartland Flyer is not popular with the Oklahoma legislature, as evidenced by the ODOT press release of September 29th:

The Heartland Flyer costs approximately \$4 million annually to operate. Last year, the Oklahoma Legislature, through HB1078, and with the help of Sen. Johnnie Crutchfield, D-Ardmore, authorized \$2 million annually for the train leaving the requirement that the remaining \$2 million be secured from other sources. Governor Henry had requested that ODOT make the securing of the balance of this funding a high priority.

Putting the cost of the Heartland Flyer in perspective, a single rural highway bridge can cost taxpayers millions. As evidence, an ODOT press release on July 7 proclaimed the completion of a 40-foot wide SH-33 bridge crossing Cox Creek at a cost of \$2.5 million. The new bridge has now reopened commercial trucking between, of all places, Guthrie and Kingfisher. ODOT Director Gary Ridley in the same press release claimed that more than 1,600 state bridges are in need of replacement or restoration with 135 posted as inaccessible to commercial trucks. If the \$2.5 million bridge

replacement can be taken as an average, Oklahomans taxpayers are looking at a \$4 billion bridge replacement and repair bill, more than \$1 thousand for every man, woman, and child in our State.

Indeed, those bridge construction costs are staggering, but fiscally responsible alternatives are available. In 1999, as a part of a contract among Amtrak, Burlington Northern Santa Fe (BNSF) Railway, and the State of Oklahoma, \$2.6 million Oklahoma dollars were dedicated to railway upgrades between Oklahoma City and the Red River. These upgrades now allow the passenger train to operate at 79 mph. The rail mileage is approximately 140 miles.

Lost in the benefit is the investment-improved BNSF freight rail speed. The BNSF railway competes with the same commercial trucking that benefits from projects such as the Cox Creek SH-33 bridge replacement.

Joe Kyle, Manager of ODOT's Rails Division, has said that since 1999, freight traffic over the BNSF route between Fort Worth and Oklahoma City has increased from 24 to more than 40 trains daily. These freight trains take commercial trucks off of Oklahoma roads by the thousands every month, increasing the lifespan of Oklahoma bridges. The small state investment in passenger rail has improved freight rail movements through Oklahoma, saving taxpayer dollars as shippers make decisions between rail and road.

Unfortunately, the Oklahoma legislature and ODOT have not seen value in expansion of the passenger rail project, preferring Oklahoma City as a stub end rather than region wide extension of service to connect with the northern segment of the Amtrak network. They also do not see the taxpayer-friendly freight rail benefits.

At this point, it is not only a question of how many additional passengers can the Heartland Flyer transport annually with expansion. It is a question of how many taxpayer dollars can be saved indirectly by enticing shippers to choose

rail over road transportation. It is also a question of what price Oklahomans will pay for fuel and consumer goods that depend directly upon least-cost transportation selection. Those are the four billion dollar questions.

Oklahomans, through the legislators they elect, should hold ODOT fiscally accountable for making wise transportation decisions. Does the expenditure of \$2.6 million to improve 140 miles of rail save taxpayers money over an equivalent expenditure of money to replace a bridge? What would be the benefit of partnering with Kansas to extend the Heartland Flyer to Kansas City through Wichita?

PassengerRailOk.org issued a study, based upon rail mileage and existing Heartland Flyer contract costs to extend the Heartland Flyer to the Kansas line in the event that Kansas could be convinced to join the Oklahoma-Texas passenger rail alliance. PassengerRailOk.org requested that ODOT confirm startup estimates, \$1.33 million startup and total (Red River to Kansas line) \$6.2 million annual.

The response received was disappointing. In an October 11 letter, Joe Kyle mentioned that ODOT is uncertain as to the payments that Amtrak and the BNSF would require for an expansion of the passenger train. Shouldn't it be ODOT's responsibility to at least annually update these figures as a responsible steward of Oklahoma tax dollars? Is ODOT looking at the future of state transportation assets with a keen eye to uncertain fuel costs or are they engineering solutions based upon standard operating procedures, a roads only policy?

Union Terminal is Vital for Future East-West Passenger Rail

Jim Townsend, Shawnee

The state of Oklahoma owns the rail line between Oklahoma City and Tulsa. Oklahoma must now purchase the rail line from Altus through Lawton to OKC. With very little cost compared to highway construction, 60-mph passenger rail could become a reality.

Operating on time, with new equipment, rail passenger transportation could provide express and commuter service to more than half of the state's population.

Passenger rail between Altus and Tulsa would provide a transportation choice for Oklahoma's working men and women and for the first time would provide young people entering the work force a transportation option that would enable them to hold a job without owning a car. Cars are expensive (often more than \$6000/year) and in today's Oklahoma environment if you can't afford a car you can't hold a job.

Senior citizens and Oklahoma's handicapped would realize an independence that hasn't existed since we had scheduled passenger trains and the trolley system more than fifty years ago.

Union Terminal in OKC is very important for this plan to work. It was purchased by OKC in 1989 with a federal grant and a letter from Neal McCaleb that described the Terminal as the hub for future public transportation. It could serve OKC, Edmond, Norman, Shawnee, El Reno, Altus, Lawton, Chickasha, Jones, Stroud, Sapulpa and Tulsa.

The potential for the Union Terminal is threatened by the plan to reroute four miles of the I-40 Crosstown Expressway through the Terminal rail yard at a cost roughly estimated at \$500 million.

A great economic significance of a revised plan to use the Terminal as announced at its purchase in 1989, would be the security such usage would provide for Tinker Field, Fort Sill and Altus Air Force Base against future base closings. Workers could use dependable rail transportation, and the fuel efficiency of rail reduces US demand for foreign oil.

Salt Lake City has under construction, at this time, light rail public transportation to Hill Air

Force Base, which is a major competitor to Tinker Air Force Base*.

**Mr. Townsend was a Locomotive Engineer on the Rock Island Railroad, and for 16 years he was a State Representative for Seminole, Pottawatomie, and Cleveland Counties. He authored the legislation that changed the Highway Department to the Department of Transportation (ODOT), with widely expanded responsibilities. He was the first State Rail Planning Coordinator in ODOT with responsibility for purchase of the Rock Island Railroad, then in liquidation. He was a Commissioner of the Oklahoma Corporation Commission for nine years and for one year he was interim Director of the Department of Pollution Control.*

Public Transportation an Urgent Requirement in Oklahoma

Edwin Kessler, Norman

1. The General Problem

Amidst calls for economic development, continued for decades, special interests have Oklahoma in a crisis that could guarantee our continuance as a basement State with respect to most major indicators. The crisis in mind here lies in the paucity of public transportation and in the absence of solid efforts to alleviate this condition.

Our country's importation of more than 60% of the liquid fuels that power our society is recognized as a grave weakness, but actions of decisive effectiveness to counter this weakness, such as development of alternative fuel-efficient transportation systems and higher CAFÉ standards for automobiles, are neglected. Neglect is even more manifested in Oklahoma than in most other States.

Biofuels as substitutes for petroleum-based fuels are currently emphasized although a large proportion of our agricultural resources would be required to satisfy even a small fraction of our petroleum requirements, and most biofuel

use calls for pesticides, fertilizers and methods that deplete already beleaguered resources of land, water, and general health of the countryside. The oil industry's assessment of biofuels as a competitor to traditional oil is indicated by plans for investment of more than \$80 billion over the next nine years for extraction of petroleum from the immense reserves in tar sands in Alberta. But extraction of oil from tar sands involves far greater release of the greenhouse gas, CO₂, than does recovery of conventional oil, and this carries ominous implications for global warming.

It is often said that Oklahomans love their cars. Yes, we do. We are forced to love them by highway and automobile interests that control elections with money. Having been without decent public transit here for a long time, many Oklahomans do not realize what is missing, and our leadership sometimes says that it is awaiting stronger public advocacy of transportation alternatives.

Two further aspects of multifaceted transportation problems are presented here. First, there is the Crosstown process in Oklahoma City and second, the more general problem of rail transportation.

2. The Crosstown Process

Former OKC Planning Director, Garner Stoll, wrote in 1999 that the decision to reroute I-40 through the Union Terminal yard was made in advance of study, and his memorandum details numerous deficiencies in that decision that have become more important with time.¹ There are better choices, still available today.

The process subsequent to the mid-1990s decision was seriously flawed if not fraudulent, as elaborated in previous issues of this Newsletter and elsewhere. Nevertheless, the decision remains to eviscerate a facility, perhaps "the best in the west", that was the hub of a passenger rail network and multimodal

¹ Documentation on this and other matters presented in this text will be gladly provided upon request.

transportation center fifty years ago and could so serve again at minimal cost. Indeed, the Union Terminal was purchased in 1989 for \$1.8 million, mostly federal money, by the Central Oklahoma Parking and Transit Authority, over the signature of then Transportation Director Neal McCaleb, to serve that very announced purpose!

Today, although the existing rail line that connects Altus, Lawton, Oklahoma City and Tulsa, and intermediate towns, is still used for freight, Mr. McCaleb has said that it cannot practically be used for passenger rail. This is strongly disputed by former railroad engineer and corporation commissioner Jim Townsend. Although a study by the firm CarterBurgess indicated that 160 mph train service from OKC to Tulsa would cost nearly a billion dollars, service at highway speeds, (not addressed in the CB study!) would cost only a fraction of that, and costs would be shared with federal sources.

There is no effective address to rail passenger service between Tulsa and Oklahoma City although this could be readily provided via the existing hub in Oklahoma City². Passenger rail would be a boon to small towns on the route and would provide increased traffic with safety between Tulsa and Oklahoma City, including travel by those who do not hazard the journey by car. Travel time could be similar to that presently available by automobile, and time on a train can be constructively used by rail passengers. Park and ride facilities and bus and taxi services should be provided at the terminals and at intermediate towns.

Why aren't we moving swiftly to implement such service, also between Lawton and OKC and to Will Rogers Airport along existing rail line, for starters? Why does the Oklahoma City Chamber of Commerce continue to support building a ten-lane depressed highway through the Union Terminal rail yard at a cost of \$100

² An editorial in Tulsa World on December 12, 2006, misstates prospective conditions for passenger rail between Tulsa and Oklahoma City, in the present author's opinion.

million per mile? Are the asphalt pavers³ and truckers in the way of correction? Is the proposed destruction supported by the Oklahoma Turnpike Authority because passenger rail between OKC and Tulsa might diminish toll receipts on the Turner Turnpike? Why are realistic questions posed by advocates of a changed plan responded to with only vague generalities? Why are we told that the I-40 routing decision has been made and that further discussion is "off the table".

It is occasionally said that the Crosstown process can not be reversed because it is too far advanced. An authority has noted that \$100 million has already been spent, but this expenditure was almost entirely for right-of-way. *If the purchased land were developed in support of the intermodal facility anticipated by the 1989 purchase, perhaps even more than that amount of money could be recovered!*

Nevertheless, the City Council of Oklahoma City has approved \$387 thousand for professional consulting services from the URS Corporation of San Francisco for a land use study of 590 acres south of the existing Oklahoma City central business district on the assumption that the proposed new depressed highway will be built according to present plans. This contract was let although, in an action brought to the Surface Transportation Board (STB) in Washington, D.C., it is alleged that the railroad abandonment issue was fraudulently presented to that Board. The STB has reopened the case for rail abandonment, and it is not known at this time whether or not the Crosstown project will be authorized to proceed at the Union Terminal rail yard location. *Do Oklahoma City authorities think they know that the STB decision will turn in their favor?*

3. General development of passenger rail

Passenger rail on our country's east and west coasts is fairly well established. And all of the

following interior cities have active proposals and almost all are continuing to develop passenger rail links that are already installed: Albuquerque, Atlanta, Austin, Dallas/Ft. Worth, Denver, Minneapolis, Phoenix, Salt Lake City, Springfield, Mo., and St. Louis. And Tulsa is looking at prospects for passenger rail on existing tracks between Tulsa and Broken Arrow! Most impressive is the DART system (Dallas/Ft. Worth), already large and still being expanded to serve distant suburbs, with remarkable economic development along rights of way. And, Imagine! While Oklahoma City and the State of Oklahoma remain focused on roads and neglect alternatives, six commuter trains have been implemented in Albuquerque this year! They serve communities up to fifty miles to north and south of Albuquerque, and commuter rail between Santa Fe and Albuquerque is scheduled for startup in 2008!

While this intense rail activity is ongoing around our country, Oklahoma City is the only city that is planning to eviscerate a major rail facility that could serve as a viable and economical rail hub!

A pivotal issue is presented by the Heartland Flyer, now providing once-a-day round trip service between Oklahoma City and Ft. Worth. HF provides a relaxing ride, but for those who want to go on to Austin, for example, one must wait about three and half hours on the schedule for the connecting train from Chicago. And the trains are rarely on time because the BNSF line is very heavily loaded with freight, and either the freight train or passenger train on opposite courses must move to a siding and wait for the other to pass.

Funding of the Heartland Flyer (HF) has been contentious in the Oklahoma Legislature, which has been much more willing to subsidize highways and trucks than trains, but recent legislation in Texas has led to a sharing of funding with that state (see the companion article by Evan Stair), and continuation of HF in at least its present poor condition now seems assured.

³ Present ODOT Director Gary Ridley was once president of the Asphalt Pavers Association.

Neither the present HF schedule nor on-time performance is nearly good enough. The train is currently being advertised by the Oklahoma Dept. of Transportation as a party train with special fares to the football game in Dallas and on some holidays. This is OK as far as it goes, but for the appropriate economic development, fuel savings, and reduction of highway traffic that have occurred in other places, we need commuter service along the rail line, including between Norman and OKC, and we need on-time performance. In order to accomplish this, the rail line must have two main tracks, not one, and its carrying capacity would be thereby increased many-fold. Furthermore, the service should be extended to Kansas City with connections to east, west, and north.

Ironically, on startup in 1999, costs of the Heartland Flyer would have been well covered if the schedule had been extended to Kansas City at that time, because an agreement with Amtrak would have provided contract service involving fast freight. Your author and others believe that this extended service did not occur because of opposition from truck and highway lobbies, which continues.

4. How to act

Actions should stem from a general realization that our country is facing enormously serious crises in energy, finance, and national security, and that partial remedies to all of these ills lies in investment of present capitol flows into desperately needed infrastructure. No more tax breaks - we have an emergency, and traditional advocacy by vested interests has become practically traitorous - waving the flag as the ship goes down, as it were.

Interests that have historically advocated road over rail should recognize that they would be very much benefited by a transportation system that includes both strong rail and strong roads regulated in large part by true market forces and economically maintained. Chambers of Commerce in Norman, Oklahoma City, and elsewhere in our State should recognize and act on the important benefits in national security

and development potential that attend expanded passenger rail nowadays and that are being recognized and acted upon in other states. Roads need support, but support to the Crosstown highway project in Oklahoma City should be shifted to provision of rail service through the Union Terminal to Altus, Tulsa, and beyond in both directions, and along the main BNSF line between Fort Worth and Kansas City. The main BNSF line should be two-tracked, and on-time commuter service should be provided in both north-south and east-west directions. In this connection, also see the companion article by Jim Townsend.

New Mexico's Dept. of Transportation has produced an impressive study of the background, present status and projected future of its Railrunner passenger trains. The report includes considerable information on negotiations with BNSF, which must have great interest in expanded capacity of its line between Fort Worth and Kansas City. That line, mostly single track, is now carrying up to forty heavy freight trains daily! Financing of track improvements and development in Oklahoma should be identified through consultation among state, municipal, BNSF and Federal authorities.

These and other proposals, including funds reallocation now earmarked for Crosstown relocation, should be studied by an independent committee appointed by our Governor.

Let's get with it, Oklahoma! There is no time to lose.

New Opportunity to Promote Campaign Funding

Lynn Howell, Chair, Common Cause Oklahoma, Edmond

We believe the recent elections in Oklahoma have provided us with a new opportunity to promote public funding of certain political campaigns. No doubt all of you saw or at least heard about the television commercials in which a candidate for insurance commissioner attacked the incumbent commissioner for

accepting campaign contributions from officials of insurance companies that she regulated. In turn, the commissioner criticized those commercials for being funded by another insurance company. Similarly, in the race for corporation commissioner, both candidates charged that the other was being supported by companies regulated by the commission.

We believe that these commercials graphically demonstrate that companies that are regulated by a state agency should not be permitted to contribute to or support the campaigns of people who will run that agency. (Companies themselves cannot contribute to political candidates in Oklahoma, but their officers can, and the companies can contribute to PACs that themselves can support or oppose candidates in the guise of promoting their position on "issues.") Even if the commissioners are perfect human beings and do not end up being biased in favor of those who help them, the contributions create the appearance that the contributors are attempting to buy influence. If people are to have faith in our political system, they must not suspect that their public officials can be bought.

We therefore are drafting legislation, hopefully to be introduced in this next legislative session, that would provide a mechanism for public financing of the campaigns of candidates for insurance commissioner and corporation commissioner. We of course believe that we should have public financing of all political campaigns, but those offices are particularly critical because the insurance commissioner and corporation commissioners act in a judicial capacity when they decide issues before them. Of all government officials, judges should be the most free from any doubt as to their integrity. In that vein, we will also continue to push our proposal that campaigns for district judges be publicly funded.

"All over the place, from the popular culture to the propaganda system, there is constant pressure to make people feel that they are helpless, that the only role they can have is to ratify decisions and to consume."

Noam Chomsky

Ballot Access

David Splinter, Oklahoma City

Half of all Oklahoma legislative seats were unopposed in this November's general election (62 of 125). That means Independents and members of the party opposite the candidate had no say in electing their state senators or representatives. Why do so many Oklahoma voters have no choice?

One reason is that Oklahoma has the most restrictive ballot access laws for third parties in the nation. Oklahoma's current law requires the collection of signatures of registered voters equal to 5% of the votes cast in the last general election for president or governor. This year, that meant collecting over 73,000 valid signatures. In 2004, this caused Oklahoma to be the **only** state with just two choices for president.

Oklahoma should adopt more reasonable requirements like surrounding states. Missouri and Arkansas require 10,000 signatures to form a new party, while Louisiana now requires only 1,000 signatures. From 1924 to 1974, Oklahoma had similar threshold, with a requirement of 5,000 signatures. Oklahomans for Ballot Access Reform (OBAR), a coalition of third party members, is seeking to restore that historical number.

A number of ballot access reform bills have been introduced over the years, but most have been stopped in committee. Common Cause supported the 2002 bill (HB 2654) and a reform bill was also introduced in 2004 (HB 1429). OBAR plans to have another bill introduced this year.

You can help give Oklahoma voters have more choice. Please consider filling out the enclosed postcards and sending them to your state Representative and Senator. Just write their name and a short comment on the back and add a 24 cent stamp.

You can find more information about ballot access reform at www.OkVoterChoice.org

Redistricting Reform:

"Voters don't choose politicians --politicians choose voters"
-- Spencer Overton, author of *Stealing Democracy*

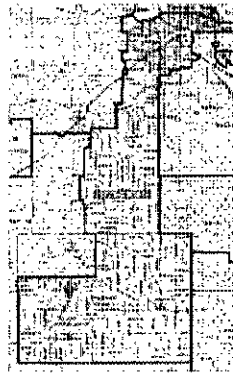
Oklahoma's gerrymandered districts also serve to limit voter choice. District lines are drawn by politicians, allowing them to pick which voters will live in their districts. A fairer system would put the power of drawing districts in someone else's hands.

When many Democratic Texas legislators fled to Ardmore in May 2003 to prevent a quorum, legislative redistricting and its potential abuses made national headlines. The legislators were trying to prevent an unprecedented mid-decade redistricting, which eventually led to Texas Republicans picking up five additional Congressional seats.

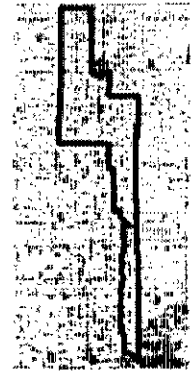
Even when redistricting is done on its normal schedule it may limit voter choice. According to Spencer Overton, "Following the 2000 Census, 49 competitive congressional districts were significantly redrawn. 92% of incumbents representing these areas obtained safer districts and only 8% received more competitive districts."

Twelve states and many other countries have already found a way to keep politicians from drawing their own district lines: independent redistricting commissions. This is a proven system to help limit gerrymandering.

A joint resolution introduced last session would have called for a vote of the people to create an independent redistricting commission in Oklahoma. Under Senator Kenneth Corn's (D-Poteau) SJR 56, the Speaker of the House, the Senate President Pro Tempore and the minority leaders of both chambers would each appoint a member of the commission. The Ethics Commission would appoint one voter who has been a registered Independent for at least ten years. Senator Corn said he plans on reintroducing his resolution this year.



<Senate District 24 stretches from Moore south to Duncan..



<House District 41, which snakes up from Yukon to north of Enid, is only six miles wide in areas.

Although *Common Cause Oklahoma* supports the proposed independent commission, we believe a stronger commission should include at least three Independents to buttress against the two Republican and two Democratic appointees. The Independents would not necessarily have a vested interest in protecting incumbents or promoting a particular party, but instead in ensuring the compactness and fairness of districts.

Common Cause has supported the formation of independent redistricting commissions in Ohio, Florida, and California.



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This issue of COMMON-TARY was edited by Edwin Kessler and assembled by O. Gail Poole

Underground Storage Tanks

As announced by press release on January 7, 2003, Common Cause Oklahoma opposed the portion of the funding process for the Weather Center in Norman that was set in motion by passage of House Bill 2536 on March 18, 2002. This has been extensively discussed in previous editions of this CCOK Newsletter. While there is now only distant linkage between the recently completed Weather Center building, the Underground Storage Tank Division at the Corporation Commission, and HB 2536, there are important existing aftermaths that are represented today by three lawsuits in process. There has been an important and welcome new development, and the following discussion by principals brings us clearly up-to-date, to an extent not provided by Oklahoma media.

Present Status of Lawsuits

*Charles Wright**

The author and Rachel Mor, formerly attorneys in the Oklahoma Corporation Commission (OCC), brought three lawsuits against the OCC and/or its agents. These involved the management of the State Environmental Clean-up Fund. There have also been two motions by us to intervene in actions filed by the OCC in its effort to avoid taxpayer demand notices.

The first suit was brought against the Commissioners as well as Ben Jackson, General Counsel of the Commission, and Dee Porter, then General Administrator of the Commission. That suit alleged, in essence, that the author and Ms. Mor were discharged wrongfully and that certain of our civil rights were violated by the OCC. We petitioned through our attorneys, James Moore and Sue Wycoff, that we were discharged because we opposed additional payment to Phillip's Petroleum Company by the Fund and reported our concerns to the FBI and the State Legislature. That suit was resolved by settlement on December 19, 2006 in a court-ordered settlement conference. The Commission's representatives agreed to pay \$325,000.00 dollars to us in final and complete settlement of the matter. Each party was obliged to pay its own attorney fees and other costs.

The second suit involves what the author and Ms. Mor and those in Common Cause Oklahoma, which has supported us, believe to be the wrongful payment to Phillips Petroleum Company of a little more than three and a half million dollars. The suit is ongoing and is an action in *Qui Tam* (a taxpayer

demand for the return of misappropriated funds to the state). That suit and the associated motion to intervene by the author and Ms. Mor continues, with vigorous opposition from the Commission and Phillip's Petroleum Company, the parties against which we brought the action. An initial decision by the trial Judge to dismiss our action was appealed, and that decision was reversed by a unanimous opinion of a three-judge panel of the Oklahoma Court of Civil Appeals. Upon receipt of that decision the Commission and Phillips requested a review via a writ of *certiorari* (request for review) directed to the Supreme Court of Oklahoma. The Court granted the request. Such a writ is granted most often when the underlying decision reflects a dispute in the lower appellate courts or appears to go against earlier opinions of the Supreme Court. We are now awaiting a decision from the Supreme Court. We are hopeful that the Court will support our position and that we will be permitted to proceed to trial. The issue has been before the Court for one year, and we anticipate a decision in the near future.

The third suit, a second *Qui Tam*, was brought against the Commission and a number of recipients and involved a second payout from new managers of the Fund. The second payout was in an amount substantially more than four million dollars. The payment had been opposed by managers of the Fund before a new administration was put in place. As in the case of the payment to Phillips, Ms. Mor and I believe, with the support of taxpayers who assisted us in making the taxpayer demand, that this payment was wrongful in that the money was not owed to the recipients. The demand for these funds was brought by the same lawyers who managed the Phillips claims. This suit has been held in abeyance by the trial judge until the State Supreme Court decision is rendered in the previous case.

** Charles Wright is presently a Hearing Officer with the Oklahoma Employment Security Commission. Rachel Mor contributed to this essay. She is presently an attorney with Haupt Brooks Vandruff in Oklahoma City.*

"There is only one force in the nation that can be depended upon to keep the government pure and the governors honest, and that is the people themselves. They alone, if well informed, are capable of preventing the corruption of power, and of restoring the nation to its rightful course if it should go astray. They alone are the safest depository of the ultimate powers of government."
Thomas Jefferson

Two reports bolster argument:
Media consolidation hurts the public

Washington, DC – The national organization, Common Cause, released two reports on October 5th refuting claims that consolidated media serves the public. The first, *A Tale of Five Cities*, describes the real-world harm that can result when one company owns the local newspaper and its dominant television and/or radio stations. The examples cited in the report show that cross-ownership can harm a community either by shutting out diverse voices or limiting access to unbiased news.

The second, *Citizens Speak: The Real World Impacts of Media Consolidation*, is a distillation of the comments of individuals who spoke at town hall hearings on media consolidation in 2003. The hearings were held to discuss the importance of localism in media and gave people a forum for expressing, often in vivid terms, how media concentration had destroyed local radio, replacing it with bland and homogenized radio formats, robbed of any local color or talent, and had left them bereft

of news OF their own communities and responsive to their need for information in a democracy. Both reports were filed Monday with the Federal Communications Commission, as the Commission once again considers changing its ownership rules to increase media concentration.

“These reports make the point again that what we have said about media consolidation’s negative impact remains relevant and compelling,” said Common Cause President Chellie Pingree. “Our study of local newspapers challenges the conventional wisdom that cross-owned print and broadcast media improve a community’s access to news and information. The voices of citizens at the FCC’s localism hearings offer an eloquent testimony to our need for diverse, independently owned media. We hope these studies can help convince the FCC that more media consolidation would be a disaster for democracy.”

